IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.113 OF 2006

Vinod Ambadas Salunke ...Applicant.

v/s

State of Maharashtra ...Respondent.

Mr. Vikas Shivarkar for the applicant.

Ms S.V. Gajre, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 13th February, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with an offence punishable under section 302 read with section 34 of the Indian Penal Code which is registered vide C.R. No.109 of 2005 at Yavat Police Station, Tal. Daund, District Pune.

3. The prosecution case is that the dead body of the person was found in a field after the complaint was filed. The investigation was initiated and it transpired in the investigation that the applicant was last seen with the deceased in the afternoon. There

is a statement of one Suryakant Raghunath Choure who has stated that he had seen the deceased between 9.30 p.m. and 10 p.m. on 8/7/2005 alongwith other persons. It is submitted that the said witness had not identified the present applicant to be one of the three persons who were last seen with the deceased at 9.30 p.m. It is, therefore, submitted that there is no evidence against the present applicant.

4. The learned APP appearing on behalf of the State, on the other hand, submitted that a a ring belonging to the deceased which was sold by the applicant has been recovered at his instance. She has submitted that the applicant had an illicit relations with the wife of the deceased and his intention was to grab his property and, therefore, he had committed murder of the deceased.

5. After considering the submissions made by both the Counsel, I am of the view that there is no sufficient evidence to indicate that the applicant alone was responsible for commission of the said offence. Further, there is a discrepancy in the statements of witnesses. The witness Suryakant Choure has stated that the deceased was found in the Company of three persons at 9.30 p.m. The applicant was not one of

those three persons who were last seen by the said witness. On the contrary, other witnesses have stated that the applicant was last seen with the deceased in the afternoon. Thus, since one of the witnesses had seen the deceased subsequently at about 9.30 p.m. alongwith other three unknown persons and not with the present applicant, it cannot be said that there is an overwhelming evidence against the present applicant. Apart from that, the charge-sheet has already been filed. There is no possibility of the applicant absconding as he is permanently residing at the address which is mentioned in the application.

6. The applicant, therefore, under these circumstances, be released on bail in the sum of Rs 5000/- with one or two sureties in the lime amount. The applicant to report to Yavat Police Station Tal. Daund, Dist. Pune twice in a month.

7. Application is accordingly disposed of.

V.M. KANADE, J.